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Appendix B
Department of the Army Procurement Policy

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH DEVELOPMENT AND ACQUISITION
103 ARMY PENTAGON
WASHINGTON DC 20310-0103

REPLY TO
ATTENTION OF

SARD-PP

21 OCTOBER 1997

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assuring Year 2000 Compliance in Information Technology (IT) Contracts

Because of the concerns expressed, throughout Army about whether or not the Government has appropriate and effective remedies in place to ensure satisfactory functionality of information technology equipment between the 20th and 21st centuries, we have developed language which should be incorporated into future solicitations for new information technology contracts. Language is also provided to modify existing information technology supply and maintenance contracts as deemed appropriate.

In addition to the above cited language, the use of warranties is permitted and encouraged if they are used in accordance with FAR Subpart 46.-7. This includes tailoring of appropriate clauses such as 52-246-19 and 52-246-20 to indicate that Year 2000 Compliance is warranted, and to state that the warranty period runs through a particular date (e.g., December 31, 2002). In addition to the remedies available under the Inspection and Acceptance clauses (i.e., rejection or pursuit of a latent defect claim), warranty clauses provide other remedies against contractors that furnish nonconforming information technology products or services. Warranties may be cost effective for many mission-critical systems, and the warranty clause may have a defect prevention effect that is far more valuable than any monetary recoveries that might ever be sought under such clauses.

Use of the solicitation language in conjunction with appropriate use of tailored warranty clauses should provide the flexibility and protection of Government's interests we need in procuring critical information technology products.

Point of contact for this action is Mrs. Esther Morse, (703) 681-1040.

Enclosure

/s/
John R. Conklin
Director
Procurement and Industrial Base Policy

RECOMMENDED LANGUAGE FOR INCLUSION IN CONTRACTS FOR COMPUTER
HARDWARE, SOFTWARE AND STEMWARE

For new contracts, the contracting office, when soliciting or awarding contracts for newly developed or commercial off-the-shelf products or systems consisting of hardware, software, firmware, middleware, or a combination thereof, shall use the following language, tailored as appropriate, in performance specifications, statements of work, or descriptions of tasks under task order contracts.

The contractor shall ensure products provided under this contract, to include hardware, software, firmware, and middleware, whether acting along or combined as a system, are Year 2000 compliant as defined in FAR Part 39.

For existing IT supply and maintenance contracts, the Contracting Office, when modifying an existing supply or maintenance contract for hardware, software, firmware, middleware or combinations thereof which will continue in use beyond December 31, 1999, shall use the following language, tailored as appropriate, in performance specifications, statements of work, or descriptions of tasks under task order contracts.

The contractor shall accomplish and document modifications necessary to ensure products previously provided, or products to be provided or maintained in the future under this contract, to include hardware, software, firmware, and middleware, whether acting along or combined as a system, shall be Year 2000 compliant as, defined in FAR Part 39.